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SUBJECT: DRC FORESTRY TITLE CONVERSION PROCESS:
STAKEHOLDERS DISCUSS NEXT STEPS

¶1. (U) Summary: The government of the Democratic Republic of Congo (GDRC) has initiated the post-conversion process of forestry titles following the completion in January 2009 of a government year-long review of 156 logging titles. The review was completed following a presidential decree that outlined the procedures for titleholders to apply for conversion of old titles to new logging concessions following the 2002 forestry code. A workshop held in Kinshasa in early March brought together stakeholders engaged in the forestry sector to discuss and make recommendations for the legal and administrative steps needed to implement the government decision to convert those title applications approved by the government. A series of recommendations were presented, with many focused on capacity building of the government agencies charged with implementing the forest code and better definition of the roles and obligations of all stakeholders. No agreement was reached, however, on how to address titles that were not approved by the government but were disputed by title holder applicants. In closing remarks during the March workshop, Minister of Environment, Forestry, Conservation of Nature and Tourism (MECNT) Jose Endundo strongly criticized certain local NGOs for their "irresponsible" position, in particular their call for a continued moratorium on the granting of new logging concessions. The long list of recommendations presented by the participants highlights that while an important milestone in sustainable forest management has been realized, much work is left to do. End summary.

LEGAL REVIEW AND CONVERSION PROCESS

¶2. (U) On January 19, 2009, the GDRC announced that it had decided to cancel 60 percent of timber contracts (totaling 91 contracts) as a result of a legal review of 156 logging applications by the Inter-ministerial Commission (IMC) established by Presidential Decree to examine logging applications solicited as a result of the decree. The legal review process, conducted with financial and technical support from the World Bank with full participation of an officially designated independent observer (US NGO World Resources Institute), examined whether previously awarded timber contracts met DRC legal and environmental standards. The legal review was aimed at promoting the sustainable management of and transparency in the forest sector. Those contracts determined to be illegal were cancelled; those deemed legal would be eligible for conversion to long-term sustainable concession agreements under a "conversion process." (Note: The DRC's 2002 Forest Code replaced colonial-era regulations governing the sector and required forest titles to be converted to new forest concession agreements. In addition to the legal review and conversion process, in May 2002 the GDRC imposed a moratorium on new timber contracts. End note.) Following an appeal period, a total of 65 titles, representing 9,719,246 hectares out of 156 applications totaling 12,719,359 hectares, were formally approved for conversion.

¶3. (U) Some international NGOs, notably Green Peace, UK Rainforest Foundation and UK-based Global Witness have strongly criticized the title conversion process over what they perceive as a lack of attention to the social and environmental impact of the conversion process on local communities, a lack of transparency during the process, lack of GDRC capacity to manage the forestry sector, and

violations of the May 2002 moratorium (Note: An October 2005 Presidential decree, PD05/116 reconfirmed the validity of the 2002 moratorium. End note.) The World Bank had previously come under pointed criticism from these same NGOs, notably the Rainforest Foundation, for not following Bank policies regarding the protection of minority rights in the forest reform process, prompting an internal inspection panel by the Bank over whether it had failed to comply with its own safeguard policies in forest sector reform. (Note: The IP eventually determined that in fact the Bank had not followed its own policies in this regard and made a series of recommendations to the Board for future Bank forestry sector activities. End note.)

NEXT STEPS: THE POST-CONVERSION PROCESS BEGINS

¶4. (U) With the legal review completed and decisions taken on which titles are eligible for conversion, the GDRC has now turned its focus to the post-conversion process of the forestry titles. From March 4-6, the Ministry of Environment (MECNT), with support from the Programme for Biodiversity and Sustainable Management of Forests in the DRC (PBF/GTZ), held a workshop on the post-conversion process. The workshop focused on four issues: dissolution of non-converted titles; the post-conversion process for valid concessions; social investment agreements ("cahier des charges"); and forest management, including conditions where allocations of new or additional concessions could be initiated. New concessions would be eventually considered according to a not as yet initiated forest land use planning process ("plan de zonage"). Participants included federal and provincial level government officials, donors, local and foreign NGOs, industry representatives, and international organizations engaged in the DRC's forestry sector. Working groups

KINSHASA 00000347 002 OF 003

in these four areas presented recommendations, which were approved by the plenary.

¶5. (U) Recommendations for the dissolution of non-converted titles included the development of a practical guide to define responsibility of stakeholders, reporting procedures, budgets and workplans; establishment of national and provincial inventory/inspection teams to ensure contracts were properly dissolved; and ensuring sufficient resources to support the dissolution process. However, no agreement was reached on how to address 16 non-converted titles for which the cancellation decision was disputed by the applicants.

¶6. (U) On the post-conversion process of converted titles, recommendations included, among others, strengthening the capacity of stakeholders; ensuring the rights and obligations of stakeholders; establishing a central body to manage land-disputes, as well as encouraging local forums on this issue; simplification of, adherence to, and greater transparency concerning fiscal policy and tax redistribution; and developing incentives to support certification of logging concessions. Recommendations on social investment agreements (funds held by the forest concession holder to finance local development projects) included clarification on the role, mandates and obligations of various stakeholders; establishment of legal perimeters for the funding of social investment agreements; setting of standard rates for services provided by the concession holder; and establishing terms of reference and procedures for payments for forest access rights.

¶7. (U) Finally, participants also presented recommendations for logging concession management and the development of land-use planning focused on multiple forest uses. Logging concession management recommendations included completion of norms and guidelines on forest management; decision on the status of previously submitted logging concession management plans; capacity building at all levels to monitor plans; establishment by logging companies of management plan units; and development of support mechanisms for companies not familiar with forest management and certification requirements. Recommendations for the development of land-use planning (sometimes referred to by certain NGOs as community forest mapping) included completion of the legislation and implementing regulations for community forests; development and

implementation of a communications program for local communities and authorities; and development of macro land-use planning and mapping for the provinces of Equateur, Orientale and Bandundu.

¶18. (U) In closing remarks at the workshop, Minister of Environment Jose Endundo highlighted the need to improve legislation and strengthen capacity to reduce illegal exploitation of resources, simplify and enhance transparency of the forest tax collection and redistribution systems, and promote the international certification of logging concessions. Noting the important role that the forestry sector can play in employment generation and poverty reduction in the DRC, Endundo strongly criticized the position of some NGOs, calling on them to adopt a "more responsible attitude" and warning local NGOs not to adopt the "radical positions" of international environmental NGOs. He specifically criticized NGOs for supporting a continued moratorium on new forestry concessions and calls to boycott Congolese forestry products in the name of conservation.

USG SUPPORTS LAND USE PLANNING

¶19. (U) The USAID-funded Central African Regional Program for the Environment (CARPE) continues to play a leading role in the promotion of sustainable natural resource management in the Congo Basin forest. To support GDRC efforts to develop and implement effective tropical forest land-use planning, CARPE is currently funding U.S. Forest Service technical assistance, in particular land use planning specialists to work with MENCT to help them design a participatory land use planning methodology for the DRC which ultimately will result in zoning measures to support various uses including additional protected areas, logging, farming, etc. in a multiple use context.

¶10. (U) Comment: Unlike the mining sector review, the forestry review process did not include renegotiation of existing contracts. Rather, the forestry sector review was a legal review to determine the validity of titles. Both review processes, however, had the same broad aim -- promote transparency, increase state revenues, and support improved governance of traditionally corrupt and mismanaged sectors. Despite the support of donors such as the World Bank, the forestry review process was plagued by similar criticisms as the mining review - foremost among them, a lack of transparency. Nevertheless, the independent observer was satisfied that the norms for the process were carried out correctly and transparently.

¶11. (U) Comment continued: Minister Endundo correctly notes the positive role that the forestry sector can play in the DRC's development. The legal review and conversion process of the

KINSHASA 00000347 003 OF 003

forestry sector, despite flaws, was an important step towards more sustainable forestry management in the DRC. How the GDRC implements the post-conversion process and addresses key remaining issues will be a major challenge given the weak institutional capacity of the ministry. The dialogue initiated during the early March workshop was a good beginning. The USG will continue to work with all stakeholders to help ensure that the process moves forward in manner that supports the DRC's economic development while also preserving one of its most important natural resources and one of the world's most intact tropical forests. End comment.

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